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PATENT APPLICATION

ATTORNEY DOCKET NO. 10991191-2IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Brian Peavey et al.

Confirmation No.: 8767

Application No.: 10/697,750

Examiner: Saied E. Dehkordy

Filing Date: October 29, 2003

Group Art Unit: 2625

Title: Image Forming Systems and Image Forming Methods

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450TRANSMITTAL OF APPEAL BRIEFTransmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on August 17, 2007.☒ The fee for filing this Appeal Brief is \$510.00 (37 CFR 41.20).☐ No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:☐ 1st Month
\$120☐ 2nd Month
\$460☐ 3rd Month
\$1050☐ 4th Month
\$1640☐ The extension fee has already been filed in this application.☐ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.Please charge to Deposit Account 08-2025 the sum of \$ 510. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.☐ A duplicate copy of this transmittal letter is enclosed.☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
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Respectfully submitted,

Brian Peavey et al.

By: 

James D. Shaurette

Attorney/Agent for Applicant(s)

Reg No.: 39,833

Date: 10/17/07

Telephone: 509/624-4276

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Application Serial No. 10/697,750
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Inventor..... Brian D. Peavey et al.
Assignee..... Hewlett-Packard Development Company, L.P.
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Examiner..... Saed Ebrahimi Dehkordy
Attorney's Docket No..... PDNO. 10991191-2
Confirmation No..... 8767
Title: Image Forming Systems and Image Forming Methods

BRIEF OF APPELLANT

To: Mail Stop Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria VA 22313-1450

From: James D. Shaurette (Tel. 509-624-4276; Fax 509-838-3424)
Wells, St. John, P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201-3817

Appellant appeals from the Office Action mailed May 17, 2007 (hereinafter "Action" or "Office Action"). The Commissioner is authorized to charge the fee required under 37 C.F.R. § 41.20(b)(2) to Deposit Account No. 08-2025.

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I. REAL PARTY IN INTEREST

The real party in interest of this application is Hewlett-Packard Development Company, L.P. as evidenced by the full assignment of the pending application to Hewlett-Packard Company recorded starting at Reel 010389, Frame 0513, and the full assignment to Hewlett-Packard Development Company, L.P. recorded starting at Reel 014061, Frame 0492, in the Assignment Branch of the Patent and Trademark Office. The Hewlett-Packard Development Company, L.P., is a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. RELATED APPEALS AND INTERFERENCES

Appellant, Appellant's undersigned legal representative, and the assignee of the pending application are aware of no appeals or interferences which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF THE CLAIMS

Claims 1-45 are pending and stand rejected. Appellant appeals the rejection of claims 1-45.

IV. STATUS OF AMENDMENTS

No amendments have been filed after the Office Action mailed May 17, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of the subject matter defined in each of the independent claims and argued dependent claims involved in the appeal follow with respect to illustrative embodiments of the specification and figures.

Referring to independent claim 1, a host computer 1 is shown in Fig. 2 and described at page 5, line 3 of the specification according to one embodiment and

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includes a memory 5 and interface 3. An image forming device is shown in Fig. 3 according to one embodiment and includes an I/O port 16 which may function as an input, a processor 21 and an image engine 18 as described at page 5, line 22.

Referring to dependent claim 2, rasterization according to one embodiment is described at page 7, line 31.

Referring to independent claim 6, an image forming method comprises receiving original data within an image forming device described at 12, line 1 according to one embodiment. Processing of the original data is described at page 12, line 4 according to one embodiment. Receiving edit data is described at page 12, line 7 according to one embodiment. Processing the edit data is described at page 12, line 10 according to one embodiment. Forming an image is described at page 12, line 17 according to one embodiment.

Referring to dependent claim 9, rasterization according to one embodiment is described at page 7, line 31.

Referring to dependent claim 11, a host computer is described at page 5, line 3 according to one embodiment. Execution of instructions is described at page 5, line 6 according to one embodiment.

Referring to independent claim 14, providing and applying of original data is described at page 11, line 5 according to one embodiment. Processing of the original data is described at page 12, line 4 according to one embodiment. Editing the original data is described at page 11, line 9 according to one embodiment. Applying the edit data is described at page 11, line 14 according to one embodiment. Processing the edit data is described at page 12, line 10 according to one embodiment. Forming an image is described at page 12, line 17 according to one embodiment.

Referring to dependent claim 17, rasterization according to one embodiment is described at page 7, line 31.

Referring to dependent claim 19, execution of instructions is described at page 5, line 6 according to one embodiment.

Referring to dependent claim 23, the image engine forming an image is described at page 9, line 8 and page 12, line 17 according to one embodiment.

Referring to independent claim 28, an image forming device is shown in Fig. 3 according to one embodiment and includes an I/O port 16 which may function as

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an input, a processor 21 which may function as processing circuitry and an image engine 18 as described at page 5, line 22.

Referring to dependent claim 29, rasterization according to one embodiment is described at page 7, line 31.

Referring to dependent claim 31, forming an image is described at page 9, line 8 and page 12, line 17 according to one embodiment.

Referring to dependent claim 33, modifying is described at page 9, line 3 and page 12, line 10 according to one embodiment.

Referring to dependent claim 34, forming an image is described at page 9, line 8 and page 12, line 17 according to one embodiment.

Referring to dependent claim 35, a host computer 1 is shown in Fig. 2 and described at page 5, line 3 of the specification according to one embodiment and includes an interface 3 and user inputs are described at page 4, line 21 in one embodiment.

Referring to dependent claim 36, execution of an application program is described at page 5, line 6 according to one embodiment.

Referring to dependent claim 37, receiving original data within an image forming device described at 12, line 1 and receiving edit data is described at page 12, line 7 according to one embodiment.

Referring to dependent claim 38, forming an image is described at page 9, line 8 and page 12, line 17 according to one embodiment.

Referring to dependent claim 39, receiving user inputs and creating original data and edit data are described at page 4, line 19 according to one embodiment.

Referring to dependent claim 40, conversion is described at page 7, line 27 according to one embodiment.

Referring to dependent claim 41, receiving original data within an image forming device is described at page 12, line 1 and receiving edit data is described at page 12, line 7 according to one embodiment.

Referring to dependent claim 42, forming an image is described at page 9, line 8 and page 12, line 17 according to one embodiment.

Referring to dependent claim 43, execution of an application program is described at page 5, line 6 according to one embodiment. Providing original data and edit data are described at page 4, line 19 according to one embodiment.

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Referring to dependent claim 44, creating original data and edit data are described at page 4, line 19 according to one embodiment.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. The 102 rejection of claims 1-5, 21-24 and 34-37 over Aoyagi.
- B. The 102 rejection of claims 6-13, 25, 31-33 and 38-41 over Aoyagi.
- C. The 102 rejection of claims 14-20, 26-27 and 42-45 over Aoyagi.
- D. The 102 rejection of claims 28-30 over Aoyagi.
- E. The 102 rejection of claims 11 and 19 over Aoyagi.
- F. The 102 rejection of claim 23 over Aoyagi.
- G. The 102 rejection of claim 29 over Aoyagi.
- H. The 102 rejection of claim 31 over Aoyagi.
- I. The 102 rejection of claim 33 over Aoyagi.
- J. The 102 rejection of claim 34, 38 and 42 over Aoyagi.
- K. The 102 rejection of claims 35, 36 and 39 over Aoyagi.
- L. The 102 rejection of claim 36 over Aoyagi.
- M. The 102 rejection of claims 37 and 41 over Aoyagi.
- N. The 102 rejection of claim 40 over Aoyagi.
- O. The 102 rejection of claim 44 over Aoyagi.
- P. The 103 rejection of claims 2, 9 and 17 over Aoyagi and Kishida.
- Q. The 103 rejection of claims 2, 5, 9 and 17 over the combination of Kishida and Aoyagi.

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VII. ARGUMENT

A. Positively-recited limitations of claims 1-5, 21-24 and 34-37 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 1 recites a *host computer comprising a memory device configured to store original data and an interface configured to receive edits of the original data providing edit data*. Appellants respectfully submit the claimed interface in combination with the other limitations of claim 1 is not disclosed nor suggested by the prior art.

At pages 2 and 3 of the Action, the Office relies upon the teachings of col. 14, lines 49-67 of Aoyagi as teaching the interface. However, these teachings refer to inputting of new data and reading out of a photograph to input the image data and fail to teach or suggest *an interface configured to receive edits of the original data* as positively claimed. The Office at page 3 of the Action also relies upon the teachings of col. 8, lines 35-45 and item 407 of Aoyagi. However, the teachings of col. 8 disclose reading image data from memory and writing image data to memory and fail to teach or suggest an interface configured to receive edits of the original data as positively claimed. At page 2 of the Action, the Office relies upon the teachings of col. 7, lines 12-15 of Aoyagi as teaching the interface. However, Appellants submit the generic keyboard and mouse teachings of col. 7, lines 12-15 fail to teach or suggest *an interface configured to receive edits of the original data* as positively claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 1 additionally recites the *image forming device including an input coupled with the host computer and configured to receive the original data and the edit data*. The Abstract at lines 8+ of Aoyagi recites the copying machine generating image data from an internally scanned document and obtaining data from memory which fails to teach or suggest the claimed *input of the image forming device coupled with the host computer and configured to receive the original data and the edit data*. Furthermore, the teachings in col. 7, lines 34-40 refer to reading data from scanner 300 of the copying machine which fails to teach or suggest the claimed *input coupled with the host computer and configured to receive the original data and the edit data*.

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Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 1 additionally recites the *image forming device including a processor configured to process the original data prior to the image forming device receiving the edit data, and to process the edit data after the processing the original data.* The Office at page 4 of the Office Action relies upon the teachings of col. 7, lines 33-52. These teachings are void of the claimed edit data and accordingly fail to teach the limitations of the *processor configured to process the original data prior to the image forming device receiving the edit data, and to process the edit data after the processing the original data.* The Office at page 4 also relies upon the teachings in col. 18, lines 52-67 and col. 19, lines 1-16 and 37-48 as teaching the above-recited limitations of the image forming device regarding the processor. The Office on page 4 of the Action identifies the CPU 313 as teaching the claimed processor. However, the teachings of cols. 18-19 fail to refer to CPU 313 of Fig. 3 identified as allegedly teaching the claimed processor. These teachings additionally fail to disclose or suggest the claimed limitations of the processor of the image forming device configured to process the original data prior to the image forming device receiving the edit data, and to process the edit data after the processing the original data.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 1 recites the *image forming device comprising an image engine configured to form an image corresponding to the processed original data and the processed edit data.* The Office at page 4 of the Action relies upon the teachings of col. 7, lines 40-45 of Aoyagi as allegedly teaching the claimed image engine. However, these teachings merely disclose that an entirety of the data received from the scanner of the copying machine is processed and converted to BCMY data and printed which fails to teach or suggest any printing using original data inasmuch as the original data has been converted and which fails to teach or suggest the claimed image engine configured to form an image corresponding to the processed original data and the processed edit data. At page 2 of the Action (in response to Appellant's prior Response), the Office additionally relies upon the teachings of col. 7, line 34 – col. 8, line 12 as teaching the image engine. These teachings of cols.

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7 and 8 fail to disclose or suggest the image engine configured *to form an image corresponding to the processed original data and the processed edit data*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

B. Positively-recited limitations of claims 6-13, 25, 31-33 and 38-41 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

At page 4 of the Office Action, the Office relies upon the Abstract, lines 8-10 of Aoyagi as teaching the limitations of *receiving the original data using the image forming device*. However, these teachings disclose *the copying machine generating image data* by reading a document (i.e., using a scanner 300 of the copying machine) which fails to teach *receiving the image data within the image forming device*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

The Office at page 5 of the Action relies upon the teachings of col. 3, lines 34-45 as teaching the limitations of *processing the original data using the image forming device*. However, these teachings in col. 3 fail to refer to the copying machine relied upon as teaching the image forming device or any processing of the original image data using the copying machine 101 of Aoyagi. The Office also relies upon col. 18, lines 52-55 as teaching the processing the original data using the image forming device. However, these teachings in col. 18 fail to refer to the copying machine and fail to teach *processing of original data using the image forming device* as claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 6 recites *processing edit data using the image forming device*. The Office at page 5 of the Action relies upon teachings of the Abstract, lines 12-16. However, these teachings refer to the copying machine *reading* the edited image

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data from memory and fail to disclose *processing the edit data using an image forming device*. The Office also relies upon the teachings in col. 18, lines 65-67 and col. 19, lines 1-4. However, these teachings are void of disclosing the copying machine relied upon by the Office as teaching the image forming device. These teachings are void of teaching *processing edit data using the image forming device* as claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 6 recites *forming an image corresponding to the original data and the edit data*. The Office relies upon the teachings of col. 19, lines 5-16 of Aoyagi in support of the rejection. These teachings refer to transfer of data and generically teach that as image data can be transferred at high speed it becomes possible to print high quality image data which fails to disclose or suggest the claimed limitations of *forming an image corresponding to the original data and the edit data*. At page 2 of the Action, the Office relies upon col. 7, line 34 – col. 8, line 12 as teaching the forming. These teachings disclose printing image data onto recording paper at line 45 of col. 7 void of teaching *forming an image corresponding to both the original data and the edit data* as defined in claim 6.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

C. Positively-recited limitations of claims 14-20, 26-27 and 42-45 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 14 recites *providing original data using a host computer*. The Office in the Action *fails to identify any teachings of the prior art* which allegedly disclose the limitations of *providing original data using a host computer*. This failure to identify teachings of the claimed providing in the Action follows Appellants specific request in the Response filed February 28, 2007 for identification of teachings which allegedly teach these limitations. Appellants respectfully submit that the continued

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inability of the Office to identify teachings in the prior art of the claimed providing original data using a host computer illustrates the erroneous nature of the 102 rejection. To the contrary, Aoyagi teaches the scanning unit 300 of the copying machine as generating the image data.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 14 additionally recites applying the original data to an image forming device. The Office relies upon the teachings in the Field of the Invention at col. 1, lines 6-11 as well as col. 18, lines 53-55 of Aoyagi. The teachings of col. 18, lines 53-55 refer to reading data using a reader of the copying apparatus and fail to teach applying original data to the image forming device which was provided using the host computer. Furthermore, the generic teachings in the Field of the Invention fail to teach that the data transferred between the host computer and the copying machine of Aoyagi is applied to the image forming device or that such transferred data teaches original data which was provided using a host computer and is applied to the image forming device.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 14 further recites editing the original data providing edit data using the host computer. The Office relies upon the teachings in lines 3-9 of the Abstract as teaching the claimed editing. However, the Abstract teachings disclose editing image data read by the copying machine which fails to teach the claimed editing the original data which was provided using the host computer as defined in claim 14. The Office at page 6 of the Action also relies upon the teachings of col. 18, lines 55-56 as teaching the claimed editing. However, these teachings refer to an editor which is not disclosed in Aoyagi as being the personal computer 100 relied upon as teaching the host computer. Furthermore, these teachings in col. 18 refer to editing image data read by a reader which are void of teaching or suggesting limitations of editing the original data which was provided using the host computer as defined in claim 14. Referring to page 2 of the Action, the Office relies upon the teachings of the Abstract, lines 10-12 of Aoyagi as teaching the claimed editing. However, these teachings of the Abstract clearly refer to the computer editing the image data which was read by the copying machine from a scanned document which fails to

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teach editing the original data which was provided using the host computer as claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 14 recites *processing the edit data using the image forming device*. The generic teachings of lines 13-16 of the Abstract and lines 2-4 of col. 19 of Aoyagi relied upon by the Office regarding reading the edited image data from memory fails to teach or suggest the claimed *processing of the edit data* especially in consideration of the separately claimed limitation of applying the *edit data to the image forming device*. The mere reading of the edit data by the copying machine of the Abstract may not be fairly considered to teach the claimed processing when the processing is properly considered in combination with the second applying as recited in claim 14.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

The cursory reference to the generic writing unit 302 on page 6 of the Office Action fails to teach or suggest the limitations of *forming an image according to the original data and the edit data* as explicitly defined in claim 14.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

D. Positively-recited limitations of claims 28-30 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Aoyagi teaches the copying machine including a *scanner unit 300 to scan a document to provide image data* which fails to teach or suggest the claimed *interface of the image forming device configured to couple with a host and to receive original data and edit data from the host, wherein the original data corresponds to content of an image to be formed and the edit data comprises an edit of the content* as recited in claim 28.

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Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

In reciting the limitations of claim 1 on pages 3-4 of the Action in support of the rejection of claim 28, the Office fails to identify prior art teachings which allegedly disclose the claimed processing circuitry of claim 28. Aoyagi teaches the copying machine scanning a document to provide image data which fails to teach or suggest the processing circuitry of the image forming device configured to access the original data and the edit data from the interface (from the host) and to process the original data and the edit data. Aoyagi also fails to teach the processing circuitry of the image forming device is further configured to initiate the processing of at least some of the original data before reception of the edit data within the interface.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

Claim 28 also recites the image forming device comprising an image engine configured to form an image upon media using combined ones of the processed original data and the processed edit data. The teachings of col. 7, lines 40-45 of Aoyagi merely disclose that an entirety of the data received from the scanner of the copying machine is processed and converted to BCMY data and printed which fails to teach or suggest printing using original data inasmuch as the scanned data of Aoyagi has been converted and which fails to teach or suggest the claimed image engine configured to form an image upon media using combined ones of the processed original data and the processed edit data. The teachings of col. 7, line 34 – col. 8, line 12 of Aoyagi fail to disclose or suggest the image engine configured to form an image corresponding to the processed original data and the processed edit data.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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E. Positively-recited limitations of claims 11 and 19 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

The claims recite *executing image specification instructions using the host computer providing the original data*. The teachings of col. 7, lines 10+ of Aoyagi refer to a generic arrangement of a computer and fail to teach or suggest the above-recited positively claimed limitations. In particular, Aoyagi explicitly discloses at col. 7, lines 33+ the use of a scanner unit 300 to provide the data which is thereafter edited. Aoyagi fails to teach or suggest the claimed limitations of *using the host computer providing the original data*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

F. Positively-recited limitations of claim 23 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 23 further defines claim 1 and recites the *image engine is configured to form the image using the processed original data and the processed edit data*. The Office relies upon the teachings of col. 19, lines 1-16 of Aoyagi as allegedly teaching these limitations. However, Aoyagi discloses at col. 19, lines 2+ that the printer reads out the image data which has been edited and written by the editor and printing the image data. Aoyagi teaching printing using the *edit data* provided by the editor fails to teach or suggest the claimed image engine configured to form the image using the processed *original data* as explicitly claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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G. Positively-recited limitations of claim 29 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 29 further defines claim 28 and recites that the *processing circuitry is configured to rasterize the original data and the edit data to process the original data and the edit data*. The Office relies upon the teachings of col. 19, lines 1-15 of Aoyagi in support of the rejection. However, these teachings recite that the printer executes processing for reading out image data and printing the image data. These teachings further recite *processing for writing and reading image data and fail to mention "raster."* Furthermore, Appellants have electronically searched Aoyagi and failed to uncover any mention of "raster" in the entire document let alone any teachings of the *processing circuitry of the image forming device is configured to rasterize the original data and the edit data*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

H. Positively-recited limitations of claim 31 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 31 depends from claim 6 and positively recites that the *forming the image comprises combining processed original data and processed edit data*. The generic teachings of col. 19, lines 1-12 of Aoyagi fail to teach or suggest combination of original and edit data and claim 31 is allowable for at least this reason.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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I. Positively-recited limitations of claim 33 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 33 depends from claim 6 and recites modifying the original data using the edit data after the processing of the original data, wherein the modifying comprises modifying using the image forming device. The teachings of col. 19, lines 1-5 of Aoyagi refer to writing data into memory, reading image data from memory and printing the image data which fails to teach or suggest the positively claimed *modifying the original data using the edit data using the image forming device*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

J. Positively-recited limitations of claim 34, 38 and 42 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

The claims recite formation of the image comprising content of both the original data and the edit data. The Office relies upon the teachings of col. 7, lines 34 – col. 8, line 11. These teachings disclose scanning a document and performing image processing and color converting to convert an entirety of the scanned RGB data to BCMY data which fails to teach or suggest *formation of the image comprising content of both the original data and the edit data*.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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K. Positively-recited limitations of claims 35, 36 and 39 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

The claims recite in various forms that the host computer generates or creates the original data and the edit data according to user inputs. The Office fails to recite any prior art teachings in support of the rejection of claim 35 but relies upon Aoyagi at the Abstract, lines 1-16 in support of the rejection of claim 39. However, the Abstract refers to reading image data from a document to provide the image data consistent with the scanner 300 of the copying machine generating the image data and which fails to disclose or suggest the host computer generating or creating the original data according to user inputs as positively claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

L. Positively-recited limitations of claim 36 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

The claim depends from claim 35 and further defines that the processing circuitry of the host computer is configured to execute an application program to generate the original data and the edit data according to the user inputs. The Office recites teachings in col. 7, lines 53+ of Aoyagi in support of the rejection. However, these teachings disclose processing of data by the copying machine and which has already been scanned by the scanner of the copying machine which fails to teach the claimed limitations of the processing circuitry of the host computer executing the application program to generate the original data.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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M. Positively-recited limitations of claims 37 and 41 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

The claims recite in various forms the image forming device receiving the original data and the edit data from the host computer. The Office relies upon the teachings of lines 2-16 of the Abstract in support of the rejection of claim 37 and fails to identify any prior art teachings in support of the rejection of claim 41. However, the explicit teachings of the Abstract disclose the copying machine of Aoyagi as opposed to the PC 100 for reading the image data from a document which fails to teach or suggest the imaging forming device receiving the original data from the host computer as claimed.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

N. Positively-recited limitations of claim 40 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 40 recites the first and second processings individually comprise converting page description language data of respective ones of the original data and the edit data to display command list data. The teachings of col. 1, lines 41-48 of Aoyagi fail to mention "display command list" which is discussed at page 7, lines 29+ of the specification of the present application. Furthermore, Appellants have electronically searched Aoyagi and failed to uncover any disclosure of "display command list."

Appellants respectfully submit that these limitations of converting data to display command list data are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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O. Positively-recited limitations of claim 44 are not disclosed nor suggested by Aoyagi and the 102 rejection is improper.

Claim 44 recites creating the original data and the edit data using a host computer. The Abstract at lines 1-16 of Aoyagi relied upon by the Office teaches *creation of data using the copying machine by the copying machine scanning a document* to the contrary of the claimed limitations of creating the original data using the host computer.

Appellants respectfully submit that these limitations are not disclosed by the prior art and the claims are allowable for at least this reason.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art. Appellants respectfully request reversal of the 102 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

P. Positively-recited limitations of claims 2, 9 and 17 are not disclosed nor suggested by Aoyagi or Kishida and the 103 rejection is improper.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. *Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.* See, e.g., MPEP §2143 (8th ed., rev. 5).

The claims recite rasterizing original data and edit data. Even if Kishida is combined with Aoyagi, such combination fails to disclose or suggest rasterization of both *original data and edit data*. The rasterization teachings of data of Kishida fail to disclose or suggest any rasterization of both original data and *edit data of the original data* as claimed.

As set forth herein, Appellants respectfully submit that numerous positively-recited limitations are not disclosed nor suggested by the prior art references taken alone or in combination. Appellants respectfully request reversal of the 103 rejections for at least the above-mentioned compelling reasons and allowance of the claims.

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Q. The Office has failed to establish proper motivation for combining the teachings of Kishida with the teachings of Aoyagi and the 103 rejection of claims 2, 5, 9 and 17 is improper for at least this reason.

To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The prima facie case is a procedural tool of patent examination, allocating the burdens of going forward as between examiner and applicant. *In re Spada*, 911 F.2d 705, 707 n.3, 15 USPQ2d 1655, 1657 n.3 (Fed. Cir. 1990). As discussed in *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984), the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability including some articulated reasoning with a rational underpinning to support the legal conclusion of obviousness. *KSR Int'l v. Teleflex, Inc.*, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007).

Appellants respectfully submit the Office on pages 11-12 of the Action sets forth a conclusory recitation of alleged Kishida teachings absent of an articulated reasoning with a rational underpinning for combining the references. There is no evidence of record that the teachings of Kishida may be incorporated into the copy system arrangement of Aoyagi. The Office has identified no factual basis or other support that the copy system of Aoyagi directed to scanning of documents can be modified to rasterize original data and edit data as claimed.

In addition, Appellants include herewith a dictionary definition of "rasterization" from the *Microsoft Computer Dictionary*, 5th ed., 2002 which was included with Appellants' Response filed February 28, 2007 and stating that such is the conversion of *vector graphics* (images described in terms of mathematical elements, such as points and lines) to equivalent images composed of *pixel patterns* that can be stored and manipulated as sets of bits. As disclosed in col. 9, lines 22 of Aoyagi, the scanned images are already pixel images with no need for rasterization. Further, Appellants have failed to uncover any usage of vector graphics in Aoyagi where rasterization may be applicable let alone in a manner to teach the claimed image forming device configured to rasterize both the original data and the edit data as claimed.

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Appellants respectfully submit that the Office has failed to provide a proper articulated reasoning with a rational underpinning for combining the references. Appellants respectfully submit the Office has failed to meet its burden of establishing motivation for combining the prior art references and the 103 rejection is improper for at least this reason.

R. Conclusion


In view of the foregoing, reversal of the rejections of the claims is respectfully requested. For any one of the above-stated reasons, the rejections of the respective claims should be reversed. In combination, the above-stated reasons overwhelmingly support such reversal. Accordingly, Appellants respectfully request that the Board reverse the rejections of the claims.

Respectfully submitted,

Date:

10/17/07

Attorney:


James D. Shaurette
Reg. No. 39,833

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VIII. CLAIMS APPENDIX

1 1. [Original] An image forming system comprising:
2 a host computer including:
3 a memory device configured to store original data; and
4 an interface configured to receive edits of the original data
5 providing edit data; and
6 an image forming device including:
7 an input coupled with the host computer and configured to
8 receive the original data and the edit data;
9 a processor configured to process the original data prior to the
10 image forming device receiving the edit data, and to process the edit data after
11 the processing the original data; and
12 an image engine configured to form an image corresponding to
13 the processed original data and the processed edit data.

1 2. [Original] The system according to claim 1 wherein the processor
2 of the image forming device is configured to rasterize the original data and the
3 edit data to provide the processing.

1 3. [Original] The system according to claim 1 wherein the interface
2 of the host computer and the input of the image forming device are individually
3 configured to receive commands and the image engine is configured to form the
4 image responsive to the commands.

1 4. [Original] The system according to claim 1 wherein the image
2 engine comprises a print engine configured to form the image upon media.

1 5. [Original] The system according to claim 1 wherein the host
2 computer includes a processor configured to execute image specification
3 instructions and printer driver instructions.

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1 6. [Previously Presented] An image forming method comprising:
2 first receiving original data within an image forming device;
3 first processing the original data using the image forming device;
4 second receiving edit data of the original data within the image
5 forming device;
6 second processing the edit data using the image forming device after the
7 second receiving; and
8 forming an image after the processings corresponding to the original
9 data and the edit data.

1 7. [Original] The method according to claim 6 further comprising
2 receiving an image command after the first receiving.

1 8. [Original] The method according to claim 6 further comprising
2 receiving an image command after the second receiving.

1 9. [Original] The method according to claim 6 wherein the first
2 processing and second processing individually comprise rasterizing.

1 10. [Original] The method according to claim 6 wherein the forming
2 comprises forming the image upon media using a print engine.

1 11. [Original] The method according to claim 6 further comprising:
2 providing a host computer; and
3 executing image specification instructions using the host computer
4 providing the original data and the edit data.

1 12. [Original] The method according to claim 6 wherein the first
2 processing comprises beginning processing before the second receiving.

1 13. [Original] The method according to claim 6 wherein the second
2 receiving comprises receiving after the first receiving of the entire original data.

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1 14. [Previously Presented] An image forming method comprising:
2 providing original data using a host computer;
3 first applying the original data to an image forming device;
4 processing the original data using the image forming device;
5 editing the original data providing edit data using the host computer;
6 second applying the edit data to the image forming device;
7 processing the edit data using the image forming device after the
8 second applying; and
9 forming an image according to the original data and the edit data after
10 the processings.

1 15. [Original] The method according to claim 14 further comprising
2 applying an image command to the image forming device using the host
3 computer after the first applying and the forming is responsive to the applying
4 the image command.

1 16. [Original] The method according to claim 14 further comprising
2 applying an image command to the image forming device using the host
3 computer after the second applying and the forming is responsive to the
4 applying the image command.

1 17. [Original] The method according to claim 14 wherein the
2 processings individually comprise rasterizing.

1 18. [Original] The method according to claim 14 wherein the forming
2 comprises forming the image upon media using a print engine.

1 19. [Original] The method according to claim 14 further comprising
2 executing image specification instructions using the host computer providing the
3 original data and the editing.

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1 20. [Original] The method according to claim 14 wherein the
2 processing the original data comprises beginning processing before the second
3 applying.

1 21. [Previously Presented] The system according to claim 1 wherein
2 the interface is configured to receive the edits comprising edits of content of the
3 original data.

1 22. [Previously Presented] The system according to claim 1 wherein
2 the interface is configured to receive the edits comprising edits entered by a
3 user.

1 23. [Previously Presented] The system according to claim 1 wherein
2 the image engine is configured to form the image using the processed original
3 data and the processed edit data.

1 24. [Previously Presented] The system according to claim 1 wherein
2 the interface is configured to receive the edits comprising edits of less than all of
3 the original data.

1 25. [Previously Presented] The method according to claim 6 wherein
2 the second receiving comprises receiving the edit data comprising edit data
3 which changes content of the original data.

1 26. [Previously Presented] The method according to claim 14 wherein
2 the editing comprises changing content of the original data.

1 27. [Previously Presented] The method according to claim 14 wherein
2 the editing comprises editing responsive to edits indicated by a user.

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1 28. [Previously Presented] An image forming device comprising:
2 an interface configured to couple with a host and to receive original data
3 and edit data from the host, wherein the original data corresponds to content of
4 an image to be formed and the edit data comprises an edit of the content;
5 processing circuitry configured to access the original data and the edit
6 data from the interface and to process the original data and the edit data,
7 wherein the processing circuitry is further configured to initiate the processing of
8 at least some of the original data before reception of the edit data within the
9 interface; and
10 an image engine configured to form the image upon media using
11 combined ones of the processed original data and the processed edit data.

1 29. [Previously Presented] The device according to claim 28 wherein
2 the processing circuitry is configured to rasterize the original data and the edit
3 data to process the original data and the edit data.

1 30. [Previously Presented] The device according to claim 28 wherein
2 the processing circuitry is configured to initiate the processing of the original
3 data before creation of the edit data using the host.

1 31. [Previously Presented] The method according to claim 6 wherein
2 the forming comprises combining the processed original data and the processed
3 edit data.

1 32. [Previously Presented] The method according to claim 6 wherein
2 the image forming device is configured to initiate the first processing of the
3 original data before creation of the edit data.

1 33. [Previously Presented] The method according to claim 6 further
2 comprising modifying the original data using the edit data after the processing of
3 the original data, wherein the modifying comprises modifying using the image
4 forming device.

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1 34. [Previously Presented] The system according to claim 1 wherein
2 the image engine forms the image comprising content of both the original data
3 and the edit data.

1 35. [Previously Presented] The system according to claim 1 wherein
2 the interface comprises a user interface configured to receive user inputs, and
3 the host computer comprises processing circuitry configured to generate the
4 original data and the edit data according to the user inputs.

1 36. [Previously Presented] The system according to claim 35 wherein
2 the processing circuitry is configured to execute an application program to
3 generate the original data and the edit data according to the user inputs.

1 37. [Previously Presented] The system according to claim 1 wherein
2 the input of the image forming device receives the original data and the edit data
3 from the host computer.

1 38. [Previously Presented] The method according to claim 6 wherein
2 the forming comprises forming the image to comprise content of both the
3 original data and the edit data.

1 39. [Previously Presented] The method according to claim 6 further
2 comprising:
 receiving user inputs using a host computer; and
3 using the host computer, creating the original data and the edit data
4 according to the user inputs.

1 40. [Previously Presented] The method according to claim 6 wherein
2 the first and second processings individually comprises converting page
3 description language data of respective ones of the original data and the edit
4 data to display command list data.

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1 41. [Previously Presented] The method according to claim 6 wherein
2 the first and second receivings individually comprise receiving a respective one
3 of the original data and the edit data from a host computer.

1 42. [Previously Presented] The method according to claim 14 wherein
2 the forming comprises forming the image to comprise content of both the
3 original data and the edit data.

1 43. [Previously Presented] The method according to claim 14 further
2 comprising executing an application program using the host computer, and
3 wherein the providing comprises providing the original data according to first
4 user inputs inputted during the executing and the editing comprises editing the
5 original data providing the edit data according to second user inputs inputted
6 during the executing.

1 44. [Previously Presented] The method according to claim 14 further
2 comprising creating the original data and the edit data using the host computer.

1 45. [Previously Presented] The method according to claim 14 wherein
2 the editing comprises changing content of the original data.

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IX. EVIDENCE APPENDIX

Appellants submit a dictionary definition of "rasterization" from the *Microsoft Computer Dictionary*, 5th ed., 2002, with this appellate brief. This definition was previously submitted to the Office with the response filed by Appellants on February 28, 2007.

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Microsoft

OVER
10,000
ENTRIES

Microsoft

Computer Dictionary

Fifth Edition

*Fully updated with the latest
technologies, terms, and acronyms
Easy to read, expertly illustrated
Definitive coverage of hardware,
software, the Internet, and more!*

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scan lines from top to bottom. Each scan line consists of pixels that can be illuminated and colored individually. Television screens and most computer monitors are raster displays. *See also* CRT, pixel. *Compare* vector display.

raster fonts *n.* Fonts that are stored as bitmaps. Raster fonts are designed with a specific size and resolution for a specific printer and cannot be scaled or rotated. If a printer does not support raster fonts, it will not print them. The five raster fonts are Courier, MS Sans Serif, MS Serif, Small, and Symbol. *Also called:* bitmapped fonts. *See also* font, printer.

raster graphics *n.* A method of generating graphics that treats an image as a collection of small, independently controlled dots (pixels) arranged in rows and columns. *Compare* vector graphics.

raster image *n.* A display image formed by patterns of light and dark or differently colored pixels in a rectangular array. *See also* raster graphics.

raster image processor *n.* A device, consisting of hardware and software, that converts vector graphics or text into a raster (bitmapped) image. Raster image processors are used in page printers, phototypesetters, and electrostatic plotters. They compute the brightness and color value of each pixel on the page so that the resulting pattern of pixels re-creates the vector graphics and text originally described. *Acronym:* RIP.

rasterization *n.* The conversion of vector graphics (images described in terms of mathematical elements, such as points and lines) to equivalent images composed of pixel patterns that can be stored and manipulated as sets of bits. *See also* pixel.

raster-scan display *n.* *See* raster display.

rate-adaptive asymmetric digital subscriber line *n.* *See* RADSL.

raw data *n.* 1. Unprocessed, typically unformatted, data, such as a stream of bits that has not been filtered for commands or special characters. *See also* raw mode. *Compare* cooked mode. 2. Information that has been collected but not evaluated.

raw infrared *n.* A method of receiving data through an infrared (IR) transceiver. Raw infrared treats the IR transceiver like a serial cable and does not process data in any way. The application is responsible for handling collision detection and other potential problems.

raw mode *n.* A way in which the UNIX and MS-DOS operating systems "see" a character-based device. If the identifier for the device indicates raw mode, the operating system does not filter input characters or give special treatment to carriage returns, end-of-file markers, and linefeed and tab characters. *Compare* cooked mode.

ray tracing *n.* A sophisticated and complex method of producing high-quality computer graphics. Ray tracing calculates the color and intensity of each pixel in an image by tracing single rays of light backward and determining how they were affected on their way from a defined source of light illuminating the objects in the image. Ray tracing is demanding in terms of processing capability because the computer must account for reflection, refraction, and absorption of individual rays, as well as for the brightness, transparency level, and reflectivity of each object and the positions of the viewer and the light source. *Compare* radiosity.

RCA connector *n.* A connector used for attaching audio and video devices, such as stereo equipment or a composite video monitor, to a computer's video adapter. *See* the illustration. *See also* composite video display. *Compare* phono connector.



RCA connector. A female version (left) and a male version (right).

RDBMS *n.* Acronym for relational data base management system. *See* relational database.

RDF *n.* *See* Resource Description Framework.

RDO *n.* *See* Remote Data Objects.

RDRAM *n.* Acronym for Rambus dynamic random access memory. A type of DRAM designed by Rambus, Inc. In its fastest form, known as Direct RDRAM, this technology provides a 16-bit data path and a peak bandwidth of 1.6 GB per second (approximately eight to ten times faster than synchronous DRAM, or SDRAM). RDRAM has been used in graphics and video chips; Direct RDRAM is expected to replace DRAM and SDRAM in personal computers. *Also called:* Rambus DRAM. *See also* dynamic RAM, SDRAM.

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X. RELATED PROCEEDINGS APPENDIX

Appellants are not aware of any related proceedings.

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